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November 14, 2024

VIA ECF

Honorable Colleen McMahon
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: *Palmer v. City of New York, et al.*, 24-cv-8035 (CM)

Dear Judge McMahon:

I am an Assistant Corporation Counsel in the Office of the Corporation Counsel, attorney for the City of New York in the above-referenced action. The City writes to respectfully request a 60-day extension of time, from November 14, 2024, until January 13, 2025, for the City to respond to Plaintiff's Complaint, and for the December 12, 2024 initial conference to be adjourned to a date convenient to the Court after January 13, 2025. This is the first request for an extension of this deadline and for an adjournment of the initial conference, and counsel for Plaintiff consents to these requests.¹

As an initial matter, upon information and belief, and according to the Civil Docket sheet, the individuals identified in the Complaint as Correction Officer Captain Atkinson, Correction Officer Cutler, Correction Officer Guzman, Correction Officer Olivieri, and Correction Officer Rivera have not yet been served with process and, as such, are not yet defendants in this action. The City requests that to the extent these individual Defendants are served before January 13, 2025, that the Court *sua sponte* deem their response to the Complaint also due on January 13, 2025, in the interest of judicial economy.

In the Complaint, Plaintiff alleges a violation of his Constitutional rights while a pre-trial detainee in the custody of the New York City Department of Correction ("DOC") on or about July 30, 2024. Specifically, Plaintiff alleges a claim of excessive force against the individual defendants, in that they allegedly conducted a strip-search of him, pepper sprayed him at close

¹ The City apologizes for its failure to comply with the Court's Individual Rules requiring that extension requests be filed two days in advance of the filing date.

range, injured his left shoulder, restrained and punched him, and stole his property without vouchering or returning same. Plaintiff also alleges *Monell* liability against the City of New York.

The reason for the requested extension is that this Office needs time to investigate the allegations set forth in the Complaint, pursuant to Rule 11 of the Federal Rules of Civil Procedure. Additional time will also provide this Office an opportunity to determine whether there has been an internal investigation into the alleged incident and to obtain medical records for injuries suffered by Plaintiff, if any. Furthermore, this Office needs sufficient time to interview the individuals involved in this incident, and once they have been served with process, to review requests for representation by the individual defendants once received, conduct representation interviews, and make representation decisions with respect to these individuals. Further, since Plaintiff alleges a claim of excessive force, the City has forwarded to Plaintiff a HIPAA-complaint medical release for execution in order to obtain his medical records to determine the extent of his physical injuries.

Accordingly, it is respectfully requested that the City's time to respond to Plaintiff's Complaint be extended to January 13, 2025, and that should any individual Defendants be served with process prior to January 13, 2025, that the Court also *sua sponte* grant those individuals a corresponding extension. It is also respectfully requested that the initial conference be adjourned to a date convenient to the Court after January 13, 2025.

I thank the Court for its consideration.

Respectfully submitted,

s/ Jacquelyn Dainow

Jacquelyn Dainow
Assistant Corporation Counsel

cc: All counsel of record (via ECF)